Assembly Constitutional Amendment No. 11

RESOLUTION CHAPTER 185

Assembly Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Article XVI A thereto, relating to infrastructure finance.

[Filed with Secretary of State September 18, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

ACA 11, Richman. Infrastructure: finance.

Existing law, commencing on January 10, 2002, requires the Governor to submit to the Legislature a proposed 5-year infrastructure plan. The plan is required to be submitted annually, in conjunction with the Governor's Budget, and to cover a 5-fiscal year period, beginning with the fiscal year that is the same as that covered by the Governor's Budget with which the plan is submitted.

This measure would establish the California Twenty-First Century Infrastructure Investment Fund in the State Treasury. Beginning in the 2006–07 fiscal year, the measure would cause a specified percentage of revenues to be transferred from the General Fund to the infrastructure fund 4 times during the fiscal year. The measure would increase the percentage of revenues to be transferred each year, subject to the rate of increase of total General Fund revenues compared to the prior fiscal year as estimated by the Department of Finance. The measure would require the Department of Finance to prepare an annual plan to expend these funds, unless the Governor directs another state agency to carry out this responsibility.

This measure would require that the funds in the infrastructure fund be allocated by the Legislature for capital outlay purposes, of which 50% would be for acquisition, construction, rehabilitation, modernization, or renovation of state-owned infrastructure and 50% would be for acquisition, construction, rehabilitation, modernization, or renovation of local government infrastructure, excluding school districts and community college districts.

WHEREAS, An investment in California's infrastructure is an investment in California's future because the quality of life in California depends on the quality of our children's education and on the condition of the state's transportation network, water system, parks, natural resources, and other infrastructure; and

WHEREAS, California's infrastructure is critically under-funded; and

WHEREAS, California has often used bonds to pay for infrastructure investments, but bonds alone cannot address the magnitude of California's infrastructure investment deficit; and

WHEREAS, According to the Legislative Analyst's 1998 report, Overhauling the State's Infrastructure Planning and Financing Process, the state needs to take two main steps to provide a more stable funding source for our infrastructure needs: dedicate a given level of General Fund resources for infrastructure, and reserve a proportion of the General Fund for current year capital outlay; and

WHEREAS, In the 1960s, when California created the nation's finest education and transportation systems, the state routinely committed 7 to 10 times more of the General Fund to capital outlay than today; and

WHEREAS, Establishing a California Twenty-First Century Infrastructure Investment Fund and slowly increasing the amount of the General Fund committed to capital outlay is an appropriate method of assuring continual capital outlay to address infrastructure needs; and

WHEREAS, By limiting the annual growth of the infrastructure fund to a small percentage of annual General Fund growth, Article XVI A will protect education, child care, and other necessary services during periods of economic recession; and

WHEREAS, The purpose of subdivision (b) of Section 2 of Article XVI A is to ensure that funding for infrastructure projects is not at the expense of funding of other vital programs and to protect existing vital programs in the event of an economic recession; now, therefore, be it

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2001–02 Regular Session commencing on the fourth day of December 2000, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Article XVI A thereto, to read:

ARTICLE XVI A

INFRASTRUCTURE INVESTMENT FUND

SECTION 1. The California Twenty-First Century Infrastructure Investment Fund is hereby established in the State Treasury for the purpose of funding capital outlay expenses. The Department of Finance shall prepare an annual plan to expend these funds, unless the Governor directs another state agency to prepare the plan.

SEC. 2. As used in this article:

(a) ‘‘Department of Finance’’ means the Department of Finance or a successor agency.

(b) ‘‘General Fund revenues’’ excludes transfers from other funds into the General Fund and transfers from the General Fund into other funds.

(c) ‘‘Infrastructure fund’’ means the California Twenty-First Century Infrastructure Investment Fund.

(d) ‘‘Made for purposes of the current fiscal year Budget Act as determined by the Department of Finance’’ means General Fund revenues contained in the Final Budget Summary published by the Department of Finance for the current fiscal year.

SEC. 3. (a) Commencing in the 2006–07 fiscal year, and in every fiscal year thereafter, the Controller shall make the following transfers from the General Fund to the infrastructure fund:

(1) During the 2006–07 fiscal year, a sum equal to 1 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(2) During the 2007–08 fiscal year, a sum equal to 1.3 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(3) During the 2008–09 fiscal year, a sum equal to 1.6 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(4) During the 2009–10 fiscal year, a sum equal to 1.9 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(5) During the 2010–11 fiscal year, a sum equal to 2.2 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(6) During the 2011–12 fiscal year, a sum equal to 2.5 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(7) During the 2012–13 fiscal year, a sum equal to 2.8 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(8) During the 2013–14 fiscal year, and every fiscal year thereafter, a sum equal to 3 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for the applicable fiscal year.

(b) Notwithstanding subdivision (a), if the total General Fund revenues for a fiscal year are estimated by the Department of Finance to not increase by at least 4 percent, after adjusting for inflation, compared to the revenues for the prior fiscal year, the increase in the percentage amount to be transferred in the budget year, as otherwise specified in paragraphs (2) to (8), inclusive, of subdivision (a) shall be delayed by one fiscal year.

(c) Notwithstanding subdivision (a), if the total General Fund revenues for a fiscal year are estimated by the Department of Finance to increase by at least 8 percent, after adjusting for inflation, compared to the revenues for the prior fiscal year, the increase in the percentage amount to be transferred in the budget year, as otherwise specified in paragraphs (2) to (8), inclusive, of subdivision (a) shall be accelerated by one fiscal year from the schedule in subdivision (a).

(d) Notwithstanding paragraph (1) of subdivision (a), the initial annual transfer to the infrastructure fund shall not occur until General Fund revenues for a fiscal year are estimated by the Department of Finance to increase by at least 4 percent, after adjusting for inflation, compared to the revenues for the prior fiscal year.

(e) Notwithstanding subdivision (a), in a fiscal year in which both of the conditions specified in subparagraphs (A) and (B) of paragraph (1) apply, the transfer pursuant to this section shall be reduced by an amount determined pursuant to paragraph (2):

(1) (A) The percentage growth in the amount required to be applied for the support of school districts and community college districts pursuant to Section 8 of Article XVI is greater than the percentage growth in General Fund revenues.

(B) The transfer specified pursuant to this section is not otherwise reduced pursuant to subdivision (b) or (f) or pursuant to subdivision (b) or (c) of Section 4.

(2) (A) Determine the amount required to be applied for the support of school districts and community college districts pursuant to Section 8 of Article XVI for the current fiscal year based on the estimate contained in the Governor’s May Revision proposal for that fiscal year.

(B) Determine an amount equal to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8 of Article XVI for the prior fiscal year multiplied by the percentage growth in General Fund revenues from the prior to the current fiscal year based on the estimate contained in the Governor’s May Revision proposal for the current fiscal year.

(C) Subtract the amount determined pursuant to subparagraph (B) from the amount determined pursuant to subparagraph (A) and multiply that difference by 0.5.

(f) Notwithstanding subdivision (a), the percentage of General Fund revenues transferred to the infrastructure fund in any fiscal year may not exceed the difference between 7.5 percent of estimated General Fund revenues for that fiscal year less the percentage of General Fund revenues for the prior fiscal year that were used to make debt payments in the prior fiscal year on general obligation bonds of the State and lease-revenue bonds issued by the State Public Works Board.

(g) The annual amount transferred to the infrastructure fund, as required pursuant to subdivision (a), shall be reduced by an amount equal to the sales tax revenue in each fiscal year that is redirected to the Traffic Congestion Relief and Safe School Bus Trust Fund pursuant to Proposition 51 if that measure was approved by the voters in November 2002.

SEC. 4. (a) The annual transfer from the General Fund to the infrastructure fund, as provided for by this article, shall be made over four time periods in the fiscal year as follows:

(1) The first transfer shall be made on August 1, or 30 days after enactment of the budget, whichever is later, and shall be in the amount of 25 percent of the total transfer for the fiscal year based on revenue assumptions made for purposes of the Budget Act, as determined by the Department of Finance.

(2) The second transfer shall be made on November 1, and shall be in the same amount as the first transfer.

(3) The third transfer shall be made on February 1, and the amount shall be the difference between 75 percent of the total required transfer for the current fiscal year, based on the adjusted revenue estimate for the current fiscal year according to the Governor's Budget proposal for the following fiscal year, and the total amount of the first and second transfers.

(4) The fourth transfer shall be made on May 31, and the amount shall be based on the difference between the total required transfer for the current fiscal year based on the adjusted revenue estimate for the current fiscal year according to the Governor's May Revision proposal for the following fiscal year and the total amount previously transferred.

(b) (1) If the updated revenue estimate for the current fiscal year, as contained in the Governor's Budget proposal for the next fiscal year, is more than 5 percent below the revenue assumptions made for purposes of the current fiscal year Budget Act as determined by the Department of Finance, the February 1 transfer shall be suspended until no sooner than May 31.

(2) If the updated revenue estimate for the current fiscal year, as contained in the Governor's May Revision proposal for the next fiscal year, is more than 5 percent below the revenue assumptions made for purposes of the current fiscal year Budget Act as determined by the Department of Finance, the February l transfer and the May 31 transfer shall be suspended for that fiscal year. If the February 1 transfer had already been made because revenue estimates at that time did not show

a 5 percent or greater decline, that amount shall be credited toward the transfer for the next fiscal year.

(3) If the revenue estimate for the current fiscal year, as contained in the Governor's May Revision proposal for the next fiscal year, is between 2 percent and 5 percent below the revenue assumptions made for purposes of the current fiscal year Budget Act, as determined by the Department of Finance, the total transfer for that fiscal year shall be only 75 percent of what it would otherwise be if revenues had not declined from the original estimate.

(4) If the revenue estimate for the current fiscal year, as contained in the Governor's May Revision proposal for the next fiscal year, is between zero and 2 percent below the revenue assumptions made for purposes of the current fiscal year Budget Act as determined by the Department of Finance, the total transfer amount for that fiscal year shall be 100 percent of that required under Section 3, and the fourth transfer on May 31 shall include the balance needed to fulfill the transfer requirement.

(c) If there is a year-to-year revenue decline on the basis that revenues in a fiscal year, as estimated either for purposes of the Budget Act at the beginning of the fiscal year, the following January in the Governor's Budget, or the following May in the Governor's May Revision, are estimated to be either less than the actual revenues in the prior fiscal year or more than 4 percent below actual revenues in the prior fiscal year after adjusting for inflation, both of the following shall occur:

(1) The transfer shall be suspended for that year. If the year-to-year decline in revenues is based on January or May revenue estimates, any transfers already made in August, November, and February of that fiscal year shall be credited toward transfer requirements for the following fiscal year. However, if the transfer is suspended in any fiscal year, the transfer in the following fiscal year shall be only one-half of the amount otherwise required based on the percentages specified in Section 3. That transfer requirement shall include amounts credited from transfers made in the prior fiscal year pursuant to this paragraph prior to any suspension occurring.

(2) Any unencumbered funds in the infrastructure fund that are allocated only to the State, and are subject to appropriation, may be loaned interest-free to the General Fund, either in the fiscal year that the transfer is suspended or in the following fiscal year, provided that these loans do not result in the delay of any previously funded projects.

SEC. 5. The funds transferred to the infrastructure fund in each fiscal year shall be allocated by the Legislature in the following fiscal year for capital outlay purposes, as follows:

(a) Fifty percent for acquisition, construction, rehabilitation, modernization, or renovation of infrastructure that is owned, or is to be acquired by, the State.

(b) Fifty percent for acquisition, construction, rehabilitation, modernization, or renovation of infrastructure, including, but not limited to, streets, roads, highways, transportation, water, parks, and open space, that is owned, or is to be acquired by, local governments, including cities, counties, a city and county, and special districts, but not school districts or community college districts. The Legislature shall provide by law a method for the annual allocation of these funds to local governments for their use on projects that meet the requirements of this section.

SEC. 6. Neither transfers to, nor allocations from, the infrastructure fund shall in any manner affect the calculations otherwise made pursuant to Section 8 or Section 8.5 of Article XVI.

SEC. 7. For purposes of this article, appropriations from the infrastructure fund pursuant to this article constitute appropriations for qualified capital outlay projects for purposes of Section 9 of Article XIII B.

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